

TITLE 1: GENERAL PROVISIONS

<u>Chapter</u>	<u>Section</u>	<u>Subject</u>	<u>Page</u>
1.05		Code Adoption	
		Ordinance Number 1515	01
1.10		Implementation	
	1.10.005	Short Title.....	07
	1.10.010	Definitions	07
	1.10.015	Rules of Construction.....	08
	1.10.020	Existing Ordinances Continued.....	09
	1.10.025	Existing Actions and Obligations Unaffected.....	09
	1.10.030	Repealed Ordinances	09
	1.10.035	City Seal.....	09
	1.10.040	Service of Notices	10
	1.10.045	Proof of Notice	10
	1.10.050	Application of Code to City.....	10
	1.10.055	Fees for Applications and Appeals.....	10
	1.10.060	Severability	10
1.15		Enforcement	
	1.15.005	Classification of Offenses.....	11
	1.15.010	Citation Authority.....	11
	1.15.015	Administrative Penalty Procedure	12
	1.15.020	Aiding and Abetting.....	15
	1.15.025	Continuing Violations	15
	1.15.030	Recovery of Criminal Justice Administration Fees ...	15
1.20		Review of Quasi-Judicial Decisions	
	1.20.005	Administrative Review (Ord 1570 - 2008)	17
	1.20.010	Council Review	18
	1.20.015	Judicial Review (Ord 1570 - 2008).....	19

* * * * *



**THIS PAGE IS
INTENTIONALLY LEFT
BLANK**

Chapter 1.05 Code Adoption

ORDINANCE NUMBER 1515

AN ORDINANCE OF THE CITY OF SEAL BEACH ADOPTING BY REFERENCE TITLES 1 THROUGH 9 OF THE SEAL BEACH MUNICIPAL CODE (2004 EDITION)

THE CITY COUNCIL OF THE CITY OF SEAL BEACH DOES ORDAIN AS
FOLLOWS:

Section 1. Findings and Intent. The City Council finds and declares that:

A. On November 6, 1961, the City Council adopted Ordinance No. 596. By such action, the City Council adopted by reference the recodified and recompiled Code of the City of Seal Beach (1961 Edition).

B. At various other times since the adoption of Ordinance No. 596, the City Council has adopted various other ordinances that have added provisions to or otherwise amended the Code of the City of Seal Beach (1961 Edition).

C. The City Council desires to amend and recodify the existing ordinances comprising the Code of the City of Seal Beach (1961 Edition) as amended.

D. In enacting this Ordinance, the City Council has complied with the procedural requirements of California Government Code Section 50022.1 et seq. As part of such compliance, there has been filed in the office of the City Clerk for public inspection a copy of Titles 1 through 9 of the Seal Beach Municipal Code (2004 Edition), together with a copy of each of the secondary codes therein adopted by reference.

E. The City Council finds that this amendment and recodification of the Code of the City of Seal Beach (1961 Edition) as amended does not have any potential for significant environmental impact, and that the adoption of this Ordinance therefore is exempt from consideration under the California Environmental Quality Act.

Section 2. Recodification and Adoption of the Code. Except as otherwise provided in this Ordinance, the Code of the City of Seal Beach (1961 Edition) as amended, is hereby amended and recodified to read as set forth in that certain document entitled "Seal Beach Municipal Code (2004 Edition)". The Seal Beach

Municipal Code (2004 Edition), and the secondary codes duly described therein, are adopted by reference pursuant to California Government Code Section 50022.1 et seq. This amendment of the Code of the City of Seal Beach (1961 Edition) as amended, and recodification and adoption as the Seal Beach Municipal Code (2004 Edition), is sometimes referred to in this Ordinance as the “2004 recodification” of the Code of the City of Seal Beach.

Section 3. Continuation of Existing Law. Where substantially the same as existing law, the Seal Beach Municipal Code (2004 Edition) shall be considered a continuation of existing law and not a new enactment.

Section 4. Effect of Recodification. The 2004 recodification of the Code of the City of Seal Beach does not affect the following matters:

A. Actions and proceedings that began before the effective date of this Ordinance.

B. Prosecution for ordinance violations committed before the effective date of this Ordinance.

C. Licenses and penalties due and unpaid at the effective date of this Ordinance.

D. Collection of licenses and penalties due and unpaid at the effective date of this Ordinance.

E. Bonds and cash deposits required to be posted, filed or deposited pursuant to any ordinance, resolution or regulation.

F. Matters of record that refers to or are connected with an ordinance whose substance is included in the Code of the City of Seal Beach (1961 Edition) as amended. Such references shall be construed to apply to the corresponding provisions of the Seal Beach Municipal Code (2004 Edition).

Section 5. Repeal. The provisions of the Code of the City of Seal Beach (1961 Edition) as amended are repealed except as otherwise provided in this Ordinance or in the Seal Beach Municipal Code (2004 Edition).

Section 6. Exclusions from Repeal. No ordinance governing the following subject matters is repealed as a result of the 2004 recodification of the Code of the City of Seal Beach or of this Ordinance:

A. Corporate or jurisdictional limits of the City.

B. Contracts to which the City is a party.

- C. Elections to which the City is a party.
- D. City taxes.
- E. City franchises.
- F. Land use classifications of specific property.
- G. Highways, roads, streets or other public right-of-way.
- H. Bonds or indebtedness of the City.
- I. A district, public corporation or other entity established by the City.
- J. Specific public improvements or assessments.
- K. Appropriation or investment of City funds.
- L. Compensation of elected officials, officers or employees of the City.
- M. A plat or subdivision within the City.
- N. Interim moratoria.

Section 7. Exclusions from Recodification. The following chapters of the Code of the City of Seal Beach (1961 Edition) as amended are not repealed as a result of the 2004 recodification of the Code of the City of Seal Beach or of this Ordinance.

- A. Chapter 5 – Building Code
- B. Chapter 21 – Subdivisions.
- C. Chapter 24 – Factory Built Housing, Mobile Houses, Recreational Vehicles, Commercial Coaches, Mobile Home Parks, Special Occupancy Trailer Parks and Camp Grounds.
- D. Chapter 24A – Mobile Home Park Conversion.
- E. Chapter 28 – Zoning.

Section 8. Subsequent Amendments to the Code. Nothing contained in this Ordinance shall affect the validity of ordinances enacted by the City Council for codification in the Seal Beach Municipal Code (2004 Edition). The City Clerk

shall cause such ordinances to be incorporated into the Seal Beach Municipal Code (2004 Edition).

Section 9. Maintenance of the Code. The City Clerk shall keep not less than one certified copy of the Seal Beach Municipal Code (2004 Edition) on file in the City Clerk's office for use by the public.

Section 10. Certification and Publication. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same or a summary thereof to be published and posted in the manner required by law.

Section 11. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof. The City Council of the City of Seal Beach hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Seal Beach at a meeting thereof held on the 24th day of April 2004.

/s/ Patricia E. Campbell
MAYOR

ATTEST:

/s/ Joanne M. Yeo
CITY CLERK

STATE OF CALIFORNIA }
COUNTY OF ORANGE } SS
CITY OF SEAL BEACH }

I, Joanne M. Yeo, City Clerk of the City of Seal Beach, California, do hereby certify that the foregoing Ordinance is an original copy of Ordinance Number 1515 on file in the office of the City Clerk, introduced at a meeting thereof held on the 26th day of January, 2004 and was passed, approved and adopted by the City Council at a meeting thereof held on the 26th day of April, 2004 by the following vote:

AYES: Councilmembers: Antos, Campbell, Doane, Larson, Yost

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ABSTAIN: Councilmembers: None

And do hereby further certify that Ordinance Number 1515 has been published pursuant to the Seal Beach City Charter and Resolution Number 2836.

/s/ Joanne M. Yeo
CITY CLERK

* * * * *



**THIS PAGE IS
INTENTIONALLY LEFT
BLANK**

Chapter 1.10 Implementation

§ 1.10.005 Short Title.

This code shall be known and may be cited as the “Seal Beach Municipal Code.”

§ 1.10.010 Definitions.

For the purposes of this code and all ordinances of the city, the words and phrases set forth in this section shall mean:

A. Board of Supervisors: governing body of the County of Orange of the State of California.

B. City Charter: laws and regulations of the City of Seal Beach.

C. City: City of Seal Beach in the County of Orange of the State of California.

D. Code: Seal Beach Municipal Code.

E. City Council: governing body of the City of Seal Beach.

F. City Hall: administrative building of the City of Seal Beach.

G. County: County of Orange of the State of California.

H. County Recorder: Orange County Clerk-Recorder.

I. In the City: in any territory over which the city has jurisdiction for the exercise of its authority.

J. Occupant: when applied to a building or parcel of land, includes any person who leases the whole or a part of such building or parcel.

K. Owner: when applied to a building or parcel of land, includes any part owner or joint owner of the whole or a part of such building or parcel.

L. Person: a natural person, firm, association, organization, partnership, business trust, corporation, company or other legal entity.

M. State: State of California in the United States of America.

N. Tenant: when applied to a building or parcel of land, includes any person who leases the whole or a part of such building or parcel.

§ 1.10.015 Rules of Construction.

A. In General. The provisions of this code and all proceedings under it are to be construed with a view to affect their objectives and to promote justice.

B. Scope. This code refers only to the commission or omission of acts within the territorial limits of the city, and to that territory outside of the city over which the city has jurisdiction by virtue of any law or by reason of ownership or control of property.

C. Delegation of Responsibility. Whenever a power is granted to an official or employee by this code, the power may be exercised by a duly authorized designee of such official or employee unless otherwise expressly provided. Whenever a duty is imposed upon an official or employee by this code, the duty may be performed by a duly authorized designee of such official or employee unless otherwise expressly provided.

D. Grammatical Interpretation. Any gender includes the other genders. The single number includes the plural and the plural includes the singular. Words used in the present tense include the past and future tenses, and vice versa, unless manifestly inapplicable. Words and phrases used in this code and not specifically defined shall be construed according to the context and to the approved usage of the language.

E. Shall - May. "Shall" is mandatory and "may" is permissive unless the context requires otherwise.

F. Cross-References. Whenever a cross-reference is made to any provision of this code, or to any ordinance, statute or regulation, such cross-reference shall be deemed to refer to the then current version of the code provision, ordinance, statute or regulation.

G. Statutory References. Whenever any code of statutes is referred to by this code, the reference shall apply to a code of statutes of the State of California unless otherwise expressly provided.

H. References Applicable to City. Whenever any officer, employee, department, division, board or commission is referred to by this code, the reference shall apply to an officer, employee, department, division, board or commission of the city unless otherwise expressly provided.

I. Computation of Time. The time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless

the last day is a holiday, and then it also is excluded. A reference to “days” shall mean calendar days unless otherwise expressly provided.

§ 1.10.020 Existing Ordinances Continued.

The provisions of this code, so far as they are substantially the same as those of city ordinances existing at the effective date of this code, shall be construed as continuations thereof and not as new enactments.

§ 1.10.025 Existing Actions and Obligations Unaffected.

The adoption of this code shall not in any manner affect:

- A. Prosecutions for ordinance violations that were committed prior to the effective date of this code.
- B. Collection of any unpaid amount due under any law.
- C. The validity of any bond or cash deposit required by any law.
- D. Existing rights and obligations, this shall remain in full force and effect.

§ 1.10.030 Repealed Ordinances.

The repeal of an ordinance shall not revive any ordinances in force before or at the time the repealed ordinance took effect. Nor shall the repeal of an ordinance affect any punishment imposed for violation of the repealed ordinance before the repeal became effective.

§ 1.10.035 City Seal.

- A. The common seal of the city, which has been adopted previously, shall be so constructed as to make the following impression:

A circle, with a center consisting of an impression of a seal, and with the words: “City of Seal Beach, Orange County, California, incorporated, October 27, 1915, A.D.” surrounding such centerpiece near the inside margin of such circle.



B. The city clerk shall have charge of the city seal, and shall be held responsible for its care and proper use.

§ 1.10.040 Service of Notices.

Unless otherwise expressly provided, whenever a notice is required to be given under this code, such notice may be given by either; (i) personal delivery or (ii) deposit in the United States mail in postage prepaid, sealed envelope. If notice is given by mail, then the notice shall be addressed to the notice recipient's last known business or residence address as reflected in the city's records. Service of notice by mail shall be deemed to have been completed on the date of deposit in the mail.

§ 1.10.045 Proof of Notice.

Proof of giving any notice may be made by the declaration or affidavit of any city officer or employee, or by any person over the age of 18 years. Such declaration or affidavit shall indicate that service was performed in conformity with this code or with such other provisions of law as are applicable to the subject matter concerned.

§ 1.10.050 Application of Code to City.

No provision of this code shall apply to, direct or restrict the city unless the provision expressly indicates that it is intended to apply to, direct or restrict the city.

§ 1.10.55 Fees for Applications and Appeals.

Fees for applications for licenses, permits and other entitlements referenced in this code shall be in an amount set by city council resolution. Fees for appeals authorized by this code shall be in an amount set by city council resolution.

§ 1.10.060 Severability.

If any section, paragraph, sentence, clause, phrase or portion of this code is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, then such decision shall not affect the validity of the remainder of this code. The council hereby declares that it would have adopted this code and each section, paragraph, sentence, clause, phrase and portion thereof, irrespective of the fact that any one or more sections, paragraphs, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

* * * * *

Chapter 1.15 Enforcement

§ 1.15.005 Classification of Offenses.

A. In General. No person shall violate any provision, or shall fail to comply with any requirement, of this code. Violations of, and failures to comply with, this code are punishable as set forth in this section. Each person violating any provision, or failing to comply with any requirement, of this code is guilty of a misdemeanor unless such a violation or failure is either; (i) designated as an infraction or subsequently prosecuted as an infraction, in which case such person is guilty of an infraction or (ii) prosecuted through the administrative penalty procedure of this chapter. Any violation of, or failure to comply with, any provision of this code may be prosecuted as a misdemeanor, as an infraction or through the administrative penalty procedure in the discretion of the city prosecutor.

B. Misdemeanor. Each person convicted of a misdemeanor under the provisions of this code shall be punishable by a fine, imprisonment or both as provided by state law.

C. Infraction. Each person convicted of an infraction under the provisions of this code shall be punishable by a fine as provided by state law. Notwithstanding the preceding, any person who violates, or fails to comply with, any requirement of this code 3 times within a 12 month period shall be guilty of a misdemeanor for each subsequent violation of such provision within that period.

D. Administrative Penalty. Each person who is assessed with an administrative penalty for a particular offense 3 times within a 12 month period shall be guilty of a misdemeanor for each subsequent offense within that period.

E. Public Nuisance. In addition to the penalties provided in this section, any condition caused or permitted to exist in violation of any provision of this code shall constitute a public nuisance and may be abated as such.

§ 1.15.010 Citation Authority.

A. Pursuant to Penal Code Sections 836.5 and 853.6 et seq., the following city personnel may make arrests and may issue citations for misdemeanor violations of those provisions of this code that such personnel have the duty to enforce:

1. Lifeguards.
2. Code Enforcement Officer.

3. Designee of the City Manager.

B. City personnel designated by the city manager may issue citations for infractions and for administrative penalties for those provisions of this code that such personnel have the duty to enforce.

§ 1.15.015 Administrative Penalty Procedure.

A. In General. Administrative penalties shall be set forth in a penalty schedule established by city council resolution and shall be payable directly to the city. Any person who fails to pay an administrative penalty, or to perform in a timely manner the corrective action designated in an administrative citation, is guilty of a misdemeanor. The city manager may dismiss an administrative citation at any time upon a determination that the citation has been erroneously issued. Any deposit submitted in connection with a request for administrative review of a dismissed citation shall be refunded in full.

B. Definitions. For purposes of this section, the words and phrases set forth in this paragraph shall mean:

1. Administrative Citation: a citation containing the following:

a. The code section violated and a description of the violation including the date, location and approximate time of the violation.

b. The corrective action required and the deadline for completing such action, if any.

c. The administrative penalty imposed for the violation and the deadline for paying such penalty.

d. The procedure for appealing the citation by requesting administrative review and the deadline for filing an appeal.

e. The printed name and signature of the code enforcement officer issuing the citation.

2. Code Enforcement Officer: an officer or employee who is authorized to issue administrative citations.

3. Legal Interest: an interest in real property that is represented by a deed of trust, quitclaim deed, mortgage, judgment lien, tax or assessment lien, mechanic's lien or other similar instrument that has been recorded with the county recorder.

4. Responsible Party: a person determined by a code enforcement officer to be responsible for violating any provision, or failing to comply with any requirement, of this code.

C. Imposition. An administrative penalty shall be assessed by means of an administrative citation issued by a code enforcement officer. Payment of an administrative penalty shall not excuse the failure to correct the violation, nor shall it bar further enforcement action by the city. If a violation pertains to a building, plumbing, electrical or similar structural or zoning issue, and if the violation does not create an immediate danger to health or safety, then an administrative citation shall not be issued for the violation until the responsible party has been provided notice and has failed to take corrective action after being afforded a reasonable opportunity to do so.

D. Enforcement.

1. Service. The code enforcement officer shall successively attempt to issue an administrative citation to the responsible party by means of personal service, mail, posting or publication. Once service has been affected, the code enforcement officer need not undertake any subsequent method of service.

a. Personal Service. If the administrative citation is issued by personal service, then the code enforcement officer shall attempt to obtain the responsible party's signature on the citation. Failure of the responsible party to sign the citation shall not affect the validity of the citation or of subsequent proceedings. Service shall be deemed complete upon delivery of the citation to the responsible party.

b. Mail. To issue an administrative citation by mail, the code enforcement officer shall send the citation by certified mail postage prepaid with return receipt requested. The citation may be sent by regular mail in conjunction with the issuance by certified mail. If a citation sent by certified mail is returned unsigned and a duplicate citation sent by regular mail is not returned due to an incorrect address, then the service shall be deemed effective pursuant to regular mail. Service shall be deemed complete on the date of deposit in the mail.

c. Posting. To issue an administrative citation by posting, the code enforcement officer shall post the citation on a real property parcel that the responsible party has a legal interest in and that is within the city. Service shall be deemed complete on the posting date.

d. Publication. To issue an administrative citation by publication, the code enforcement officer shall cause the citation to be published

once a week for 4 successive weeks in a newspaper of general circulation for the city. Service shall be deemed complete on the date of the 4th publication.

2. Satisfaction. Upon receipt of an administrative citation, the responsible party shall satisfy the citation by doing the following on or before the deadlines indicated in the citation; (i) complete the corrective action required, if any and (ii) pay the administrative penalty. Alternatively, no later than 10 days after service of the citation, the responsible party may appeal the citation by requesting administrative review; provided, however, that if the appeal period expires on a day that city hall is not open for business, then the period shall be extended to the next city business day. An appeal shall be submitted to the city clerk in writing and shall be accompanied by a deposit of the full amount of the administrative penalty or by written proof of financial hardship. Proof of financial hardship shall consist of tax returns, bank statements, salary statements or similar documentation demonstrating that the responsible party is unable to deposit the full amount of the administrative penalty. The city manager shall determine whether the deposit shall be reduced or waived due to financial hardship.

E. Collection. If a responsible party fails or refuses to satisfy an administrative citation, then the administrative penalty shall be immediately due the city. Such amount may be collected in any manner allowed by law.

F. Administrative Review.

1. Time and Notice of Hearing. The administrative review hearing shall be conducted by a hearing officer appointed by the city manager. The hearing officer shall conduct a hearing and take the matter under submission no later than 30 city business days following the timely filing of an appeal, unless the responsible party consents in writing to an extension. At least 10 calendar days prior to such hearing, written notice thereof shall be mailed to the responsible party.

2. Hearing Procedure. Administrative review hearings shall be conducted in accordance with procedures established by the hearing officer. All parties involved shall have a right to: (i) offer testimonial and documentary evidence bearing on the issues; (ii) be represented by counsel; and (iii) confront and cross-examine witnesses. The hearing officer shall not be bound by formal rules of evidence and may receive, under penalty of perjury, any relevant evidence that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. A hearing may be continued for a reasonable time for the convenience of a party or a witness. An administrative citation is prima facie proof of the violation and the code enforcement officer who issued the citation is not required to participate in the hearing.

3. Burden of Proof. The city bears the burden of proof of establishing, by preponderance of the evidence, the occurrence of the violation.

4. Failure to Attend Hearing. If a responsible party fails to attend an administrative review hearing that such person has requested, and also fails to send a representative to the hearing, then the hearing officer shall dismiss the appeal and the administrative penalty shall be deemed upheld. The hearing officer shall notify the responsible party in writing within 10 days of the dismissal of an appeal due to non-attendance.

5. Decision. The hearing officer may uphold, overturn or modify the administrative penalty and any corrective action imposed by an administrative citation. The hearing officer shall, within 45 city business days of the appeal filing date, render a written decision supported by findings. The time period set forth in this section shall not be extended except upon written consent of the responsible party. Notice of the decision and a copy thereof shall be mailed to the responsible party. The decision of the hearing officer shall be final unless council review is ordered.

6. Judicial Review. A responsible party may seek judicial review of a final city decision regarding an administrative penalty in accordance with Government Code Section 53069.4.

§ 1.15.020 Aiding and Abetting.

Whenever any act or omission is prohibited by this code, such prohibition shall be deemed to prohibit the aiding, abetting, causing, concealing or permitting of such act or omission. Any person who shall aid, abet, cause, conceal or permit such act or omission shall be guilty of a violation of this code and shall be punishable in accordance with the punishment prescribed for such act or omission.

§ 1.15.025 Continuing Violations.

Each person shall be guilty of a separate offense for every day any violation of this code, or any failure to comply with a requirement of this code, is committed, continued or permitted and shall be punishable accordingly.

§ 1.15.030 Recovery of Criminal Justice Administration Fees.

In any case in which a person is arrested for a criminal offense, a criminal justice administrative fee is imposed by the county for the arrest, and the person is convicted of a criminal offense related to the arrest, the convicted person shall reimburse the city for the entire amount of such fee.

* * * * *



**THIS PAGE IS
INTENTIONALLY LEFT
BLANK**

Chapter 1.20

Review of Quasi-Judicial Decisions

§ 1.20.005 Administrative Review.

A. Applicability. This section applies only when expressly deemed applicable to a particular license or permit by another provision of this code.

B. Appeal Eligibility. Any interested person may appeal the issuance, denial of issuance, renewal, denial of renewal or imposition of disciplinary action in connection with the license or permit.

C. Appeal Period. A written appeal must be filed with the city clerk within 10 calendar days after the decision; provided, however, that if the appeal period expires on a day that city hall is not open for business, then the period shall be extended to the next city business day.

D. Appeal Contents. The appeal must indicate in what way the appellant contends the decision was incorrect or must provide extenuating circumstances that the appellant contends would justify reversal or modification of the decision.

E. Stay of Decision. The effectiveness of any decision to suspend or revoke a license or permit shall be stayed during; (i) the appeal period and (ii) the pendency of any appeal.

F. Time and Notice of Hearing. The hearing officer shall conduct a hearing and take the matter under submission no later than 30 city business days following the timely filing of an appeal, unless the appellant, as well as the applicant if different than the appellant, consents in writing to an extension. At least 10 days prior to such hearing, written notice thereof shall be mailed to the appellant and applicant (if different than the appellant). Public notice of the hearing shall be provided in the same manner, if any, as was provided in connection with the consideration of the original decision.

G. Hearing Procedure. Appeal hearings shall be conducted in accordance with procedures established by the hearing officer. All parties involved shall have a right to: (i) offer testimonial, documentary and tangible evidence bearing on the issues; (ii) be represented by counsel; and (iii) confront and cross-examine witnesses. The hearing officer shall not be bound by formal rules of evidence and may receive, under penalty of perjury, any relevant evidence that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Any hearing may be continued for a reasonable time for the convenience of a party or a witness.

H. Burden of Proof. Unless otherwise provided by law or with respect to appeals of decisions made pursuant to Titles 10, 11 and 12, the burden is on the city to show the decision that is being appealed is reasonable and not an abuse of discretion. (Ord. No. 1570)

I. Decision. The hearing officer may uphold, overturn or modify the decision being appealed. The hearing officer shall, within 45 city business days of the appeal filing date, render a written decision supported by findings. The time period set forth in this section shall not be extended except upon written consent of the appellant and the applicant (if different than the appellant). Notice of the decision and a copy thereof shall be mailed to the appellant and to the applicant (if different than the appellant). The decision of the hearing officer shall be final unless council review is ordered.

§ 1.20.010 Council Review.

A. Authority To Order Review. Except as otherwise provided in this code, the city council may on its own motion order council review of any quasi-judicial administrative decision made by any board, commission, hearing officer or official of the city. Such motion must be duly adopted within 10 days of the issuance of the decision, and must find that the subject matter has city-wide significance warranting a determination by the city council.

B. Stay of Decision. The effectiveness of an administrative decision for which council review has been ordered shall be stayed pending completion of the council review proceedings.

C. Time and Notice of Hearing. The city clerk shall schedule the council review hearing for commencement within 40 city business days of the motion ordering council review. Public notice of the hearing shall be provided in the same manner, if any, as was provided in connection with the consideration by the board, commission, hearing officer or official having original jurisdiction.

D. Hearing Procedure. The council review hearing shall be conducted as a de novo hearing. The city council shall apply the same decision criteria as the board, commission, hearing officer or official having original jurisdiction.

E. Council Decision. The city council may uphold, overturn or modify the decision of the board, commission, hearing officer or official. Any such action shall be made by resolution, shall be supported by findings and shall be the final city decision on the subject matter. Alternatively, the city council may remand the matter for further consideration by the board, commission, hearing officer or official having original jurisdiction. In the event of a tie vote by the city council, the decision of the board, commission, hearing officer or official shall be effective.

§ 1.20.015 Judicial Review.

A. In General. In accordance with Code of Civil Procedure Sections 1094.5 and 1094.6, or other applicable law, any interested person may seek judicial review of a final city decision suspending, demoting or dismissing an officer or employee; revoking or denying an application for a permit, license or other entitlement; imposing a civil or administrative penalty, fine, charge or cost; or denying any application for any retirement benefit or allowance.

B. First Amendment Activities. In accordance with Code of Civil Procedure Section 1094.8, or other applicable law, any interested person may seek prompt judicial review of a final city decision regarding the issuance, revocation, suspension or denial of a permit or other entitlement for expressive conduct protected by the First Amendment of the United States Constitution.

C. Development Agreements. Any judicial review of an Ordinance approving a development agreement shall be by writ of mandate pursuant to Code of Civil Procedure Section 1085 or any successor statute; and judicial review of any City action as to a development agreement, other than initial approval of a development agreement, shall be by writ of mandate pursuant to Code of Civil Procedure Section 1094.5 or any successor statute. (Ord. No. 1570)

D. Statute of Limitations for Actions Challenging Certain Decisions. No court action or proceeding to challenge, review, set aside, void or annul (hereinafter collectively “challenge” in this subsection D) any decision as to:

1. The General Plan or any matter mentioned in Titles 10, 11, and 12, other than development agreements;

2. Any proceedings, acts or determinations related to such decision; or

3. Any condition imposed in connection with such decision, shall be maintained unless such action or proceeding is commenced within 60 days after the effective date of such decision. No action or proceeding to challenge any decision as to a development agreement shall be maintained unless the action or proceeding is commenced within 90 days after the effective date of the decision. Failure to timely file a challenge bars any action or proceeding or any defense of invalidity or unreasonableness of such decision, proceedings, acts, determinations or conditions. (Ord. No. 1570)

* * * * *



**THIS PAGE IS
INTENTIONALLY LEFT
BLANK**